



Agenda Date: 7/1/09
Agenda Item: 7A

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

CUSTOMER ASSISTANCE

BEVERLY GOLDBERG,
Petitioner,

v.

SOUTH JERSEY GAS COMPANY,
Respondent.

) ORDER ADOPTING INITIAL
) DECISION
)

) BPU DOCKET NO. GC08040222U
) OAL DOCKET NO. PUC 6527-08
)

(SERVICE LIST ATTACHED)

BY THE BOARD:

By petition filed with the New Jersey Board of Public Utilities (Board) on April 9, 2008, Barbara Goldberg (Petitioner) alleged that she had been over-billed for gas service by South Jersey Gas Company (Respondent) for the years 2006 - 2008. After receipt of Respondent's answer, this matter was transmitted by the Board to the Office of Administrative Law (OAL) for hearing as a contested matter on August 15, 2008.

On May 28, 2009, Administrative Law Judge (ALJ) W. Todd Miller submitted his Initial Decision in this matter to the Board. A copy of the Initial Decision is attached and made a part of this Order. No Exceptions to the Initial Decision have been received by the Board.

The procedural history of this matter before ALJ Miller, as well as his legal analysis, findings, and conclusions, are set forth in the Initial Decision and need not be restated here.

After review and consideration of the entire record, the Board HEREBY FINDS the findings and conclusions of the ALJ to be reasonable and, accordingly, HEREBY ACCEPTS them.

Therefore, based on the foregoing, the Board HEREBY ADOPTS the Initial Decision in its entirety and ORDERS that the petition of Beverly Goldberg be HEREBY DISMISSED.

DATED:

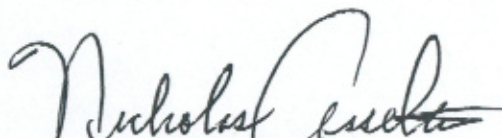
7/1/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

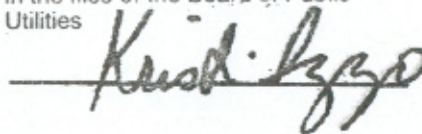

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



BEVERLY GOLDBERG

v.

SOUTH JERSEY GAS COMPANY

BPU DOCKET NO. GC08040222U

OAL DOCKET NO. PUC 6527-08

SERVICE LIST

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Exhibit A

On July 25, 2008, a staff member of SJG conducted a high-bill investigation of the subject property. Although the results were unremarkable, it was noted that the gas heating furnace was rated at 300,000 BTUs and the hot water heater was rated at 76,000 BTUs, both large energy consumption load capacities. It was also noted that there were two gas ranges within the home. Of significant importance is that this home is a 3-story structure. See copy of the high-bill investigation and other documentation, attached as Exhibit C.

Mrs. Goldberg disputes the gas service charges for the years of 2005 through 2007, stating that she over-paid \$2,970.00 in 2005 and \$12,221.81 combined for 2006-2007. This is, in fact, a gross miscalculation of the charges and her payments. See a 3-year account history attached as Exhibit D and the below information which correctly reflects all charges and payments:

<u>Year</u>	<u>Gas Charges</u>	<u>Service Sentry</u> <u>Charges</u>	<u>Total</u>	<u>CCF</u>	<u>Payments</u>
2005	\$3,826.82	\$101.97	\$3,928.79	2,753	\$2,269.80
2006	\$5,283.13	\$126.27	\$5,409.40	3,214	\$4,474.20
2007	\$1,927.96	\$123.09	\$2,051.05	1,262	\$4,085.82

I have attached a copy of SJG's bill dated August 2008, reflecting current gas consumption charges of \$55.62 and past due charges of \$1,029.60, Exhibit E. Based upon the foregoing and particularly the finding of the BPU affirming the meter accuracy and requiring payment, SJG seeks the payment in the amount of \$1,107.60 to bring her account current.

Thank you for your attention in this matter.

Respectfully submitted,

Gina Merritt-Epps, Esq.
Associate General Counsel
gmerritt@sjindustries.com

GME/JF

cc: Ms. Beverly Goldberg (via regular and certified mail)
Stacy Orapollo, Quality Assurance, South Jersey Gas Company (via e-mail)

CMS
BESLOW
RPA
KIRSCHBAUM
FORD-WILLIAMS
EW



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

RECEIVED
CASE MANAGEMENT
2009 MAY 28 11:37
BOARD OF PUBLIC UTILITIES
NEWARK, N.J.

INITIAL DECISION

OAL DKT. NO. PUC 6527-08

AGENCY REF. NO. GC08040222U

BEVERLY GOLDBERG,

Petitioner,

v.

SOUTH JERSEY GAS COMPANY,

Respondent.

Beverly Goldberg, petitioner, pro se

Steven R. Cocchi, Esq., for respondent

Record Closed: May 26, 2009

Decided: May 28, 2009

BEFORE **W. TODD MILLER, ALJ:**

STATEMENT OF THE CASE

Petitioner, Beverly Goldberg asserts that she was overbilled by South Jersey Gas Company (SJG) in the approximate amount of \$4,000 for the years 2006 and 2007. Petitioner's gas meter is inaccessible for eleven months per year. She received estimated billings which, at times, were extraordinarily high. SJG presented competent evidence that when the account was reconciled or "trued up," petitioner's bills and payments were based upon accurate meter readings. Petitioner failed to present competent evidence that she overpaid for gas service. For the reasons discussed below, the relief sought by petitioner is **DENIED**.

PROCEDURAL HISTORY

The petitioner requested a fair hearing and the matter was transmitted to the OAL on August 26, 2008, to be heard as a contested case pursuant to N.J.S.A. 52:14B-1 to 15 and 14F-1 to 13. The matter was heard on May 26, 2009. The hearing proceeded on that date and the record closed.

CONSIDERATION OF FACTS AND TESTIMONY

After hearing the testimony and assessing the credibility of same and further considering the submissions and arguments of the parties, I make the following **FINDINGS OF FACTS:**

Petitioner owns a three story home with an above ground basement apartment on the beach block in the City of Ventnor. The home is occupied only during the summer months, with petitioner occupying the first three floors and her cousin occupying the basement apartment. The gas services include a house heater, hot water heater, and two cooking ranges. (R-7). Petitioner keeps the thermostat in the fifties during the off season. The gas meter is located within the house. Since petitioner is only present at the home during the summer months, SJG based most of its readings on estimates.

SJG presented a Statement of Customer's Account for the years 2005 through 2008. (R-1). The average bill for the periods 2005-2007 was \$3,605.55. (R-1). The total billed (not paid) to petitioner was as follows:

<u>Period</u>	<u>Estimated Bill</u>
For the period January 13, 2005, through January 3, 2006	- \$3,826.82;
For the period January 31, 2006, through January 1, 2007	- \$5,283.13;
For the period January 30, 2007, through January 2, 2008	- \$1,927.96;
For the period January 31, 2008, through December 30, 2008	- \$3,229.71.

Petitioner contends that SJG made four specific errors in calculating her bill. Consequently, petitioner argues that she is due a refund of \$3,548.15. SJG counters that its gas meter was determined to be working properly, that petitioner's account was properly adjusted after actual meter readings were received, petitioner did not pay the high estimates in full and that petitioner currently owes SJG \$1,270.73. (R-4).

Error #1

Petitioner argues that the January 6, 2006, meter reading which generated a bill in the amount of \$999.59 is incorrect. The meter reading for the prior month, according to petitioner's document, was 2369 CCF. (Petitioner's Exhibit, p. 2). The estimated bill for January 3, 2006, was based upon a meter estimate of 2980 CCF. The estimated billings continued through almost the entire year, until November 14, 2006. At this time, the customer (petitioner) called in with an actual meter reading of 4366 CCF. Since petitioner's actual meter reading of 4366 CCF exceeds the January 3, 2006 estimate of 2980, it was undisputed that petitioner's gas usage through November 2006 exceeded the estimate in January 2006.

I **FIND** that petitioner used more gas by November 2006 than billed in January 2006 through November 2006. The reading just prior to October 2006 was 3631 CCF. Again, since the November 14, 2006, actual reading of 4366 CCF, exceeds the cumulative estimate of 3631 CCF, estimated on October 31, 2006, it follows that the gas company was under-estimating petitioner's gas usage through until October 31, 2006. I so **FIND**. This is confirmed because petitioner's actual reading of the meter exceeded the cumulative total of all of the estimates prior to November 14, 2006. I found SJG's explanation and analysis to be reliable, credible and adequately supported in its account analysis (R-1).

Error #2

Petitioner contends that the estimated bill on December 6, 2006¹, with a meter reading of 6085 CCF for a total amount of \$2,741.89 is erroneous. It was stipulated by the parties that this bill was based upon an estimate, not an actual meter reading. The estimated readings continued until August 29, 2007. At that time, a verified reading of 6704 CCF was submitted to SJG. Here it was established by SJG that the estimated reading of 6085 CCF generating a billing of \$2,741.89 was based solely upon an estimate due to lack of access to the meter. This estimate was machine generated based upon a variety of inputs and considerations by the company's estimating program.

All parties conceded that the December 6, 2006, estimate was extraordinarily high and unjustified. Nevertheless, when compared to the actual readings submitted by petitioner on August 29, 2007, her cumulative gas usage had exceeded the earlier estimate. Thus the estimate caught up to the actual gas usage.

For example, the verified meter reading on August 29, 2007, was 6704 CCF. At the time of the disputed estimate on November 30, 2006 (petitioner's date December 6, 2006), was 6085 CCF. Since the actual reading in August exceeds the estimate in November, the estimated bill is moot. That is, the actual gas usage ultimately caught up to the estimate. Had petitioner contacted the gas company in or around December 2006 or any time thereafter with a verified customer reading, her bill would have been adjusted accordingly.

I **FIND** that petitioner suffered no prejudice as a result of the high estimate. A review of her account indicates that she did not actually pay the December 6, 2006, estimated bill in full upon receipt. Rather, petitioner made installment payments during the course of the year. She received an adjustment of \$147.20 due the difference in the meter readings between July 2007, (6774 estimated) and August 2007 (6704 actual). Her cumulative gas usage in through August was 70 CCF less than the estimate in July 2007.

¹ Referred to as November 30, 2006 on the SJG spreadsheet. (R-1).

Notably, petitioner had a debit balance, that she owed the company money, for the first half of the year. She had a credit balance, that she was owed money, for the second half of the year. When the account was reconciled in August 2007, only a small adjustment was required.

I **FIND** SJG's explanation and analysis to be reliable, credible and adequately supported in its account analysis (R-1).

Error #3

Here, petitioner contends that the February 20, 2008, meter reading of 8226 is incorrect. On this date, petitioner's meter was exchanged. The removed meter was tested and found to be operating within acceptable limits. (R-2). On March 13, 2008, Douglas R. Ziemba, Chief of the Bureau of One Call/Meter Testing corresponded with petitioner and advised as follows:

Your gas meter was tested on March 12, 2008. The test was witnessed and the meter's accuracy verified by a member of our staff.

According to the Board's Regulations, a meter is considered accurate, if its error is not greater than two (2) percent. The results of this test indicate that the meter which has been measuring the use of gas supplied to your premises is within the prescribed limits of accuracy.

When the removed meter was tested, it had a reading of 8226 CCF. Petitioner contends that the meter reading of 8226 CCF was a post-test reading. (Petitioner's Exhibit, p. 4). Therefore, when SJG utilized a meter reading of 8226 CCF in developing petitioner's last bill before the meter was removed, it did so using an inappropriate meter reading.

Petitioner suggested that she was billed for gas used to perform the test on the removed meter. SJG established that the meter was pulled from petitioner's property on or about February 20, 2008. When the meter was pulled from the property, it had a

reading of 8226. (R-3). This was a pre-test reading, not a post-test reading. Therefore, the last reading that the meter obtained for residential gas billing purposes was 8226 CCF. SJG also relied upon the gas meter test report to confirm its reading. Therein, it states that the index or meter reading before the meter was tested was 8226 CCF. (R-3). Petitioner was surprised by this documentation and essentially conceded the point that the pre-test meter reading was 8226 CCF. Again, I found the evidence and testimony provided by SJG credible and persuasive on this issue. I **FIND** that the removed meter was working properly and that the meter reading was 8226 CCF, before it was removed.

Error #4

Here, petitioner contends that the reading of July 2, 2008, comprised of 548 CCF resulting in a bill of \$446.93 must be inaccurate. Petitioner argued it was summertime and that there is very little gas usage. She stated that there was no way she should or could generate a gas bill in the amount of \$446.93.

SJG established that the gas bill for July 2, 2008, was an actual or customer reading. The bill and reading represented an adjustment for an actual reading over prior estimates. Here, the last actual reading was December 21, 2007. All other readings between December 2007 and July 2008 were estimates. For June 2008, the estimated meter reading was 264 CCF. Consequently, when petitioner called in that the actual meter reading in July it was 548 CCF. This generated an upward adjustment of 284 CCF (548 - 264).

I **FIND** the bill for this July 2008 did not represent actual gas usage for the months of June through July. Rather, it represented an adjustment for the difference between the actual meter reading of 548 CCF over the last estimate of 264 CCF. Consequently, petitioner's contention that she was erroneously billed for a thirty day period in the summertime was flawed. Rather, the bill represented an upward adjustment over the last estimated reading in June 2008. That is, the estimated bill provided in June 2008 was too low when compared to the actual reading in July.

CONCLUSIONS OF LAW

N.J.A.C.14:3-7.2 outlines the procedures for estimated bills. It states, in part:

(e) Rules concerning estimated bills for all customers are as follows:

1. Utility companies shall maintain a regular meter reading schedule and make a reasonable effort to read all meters;
2. Utility companies, upon request, shall make available to all customers a **postage paid business reply card** on which the customer may mark the meter reading as follows:
 - i. The business reply card shall have appropriate explanation. The utility shall permit the customer to telephone the meter reading to the utility. The customer reading is to be used in lieu of an estimated reading, provided the reading is received in time for billing;
3. When a utility estimates an account for **four consecutive billing periods** (monthly accounts), or two consecutive billing periods (bimonthly and quarterly accounts), the **utility shall mail a notice marked "Important Notice" to the customer on the fifth and seventh months, respectively, explaining that a meter reading must be obtained and said notice shall explain the penalty for failure to complete an actual meter reading.** After all reasonable means to obtain a meter reading have been exhausted, including, but not limited to, offering to schedule meter readings for evenings and on weekends, the utility may discontinue service provided at least eight months have passed since the last meter reading was obtained, the Board has been so notified and the customer has been properly notified by prior mailing. If service is discontinued and subsequently restored, the utility may charge a reconnection charge equal to the reconnection charge for restoring service after discontinuance for nonpayment;
4. Utility companies shall submit to the Board of Public Utilities a statement detailing their estimating procedures;
5. If low estimates result in a customer receiving an actual bill that is at least 25 percent greater than the prior estimated bill, the utility shall allow the customer to amortize the excess amount. The amortization will be in equal installments over a period of time equal to the

period when no actual reading was taken by the customer or the utility; and

[Emphasis added]

* * * *

South Jersey Gas Company's tariff, Section 8.1 provides that:

The quantity of gas measured by the Company's meter shall be final and conclusive for billing purposes, unless adjustment thereof is appropriate pursuant to these General Terms and Conditions.

DISCUSSION AND CONCLUSIONS

In the present matter, it is undisputed that petitioner had a gas meter that was inaccessible approximately eleven months each year. Consequently, her gas bills primarily consisted of estimated bills. In most instances, the estimates were reasonable, except during the early winter months where, in each year, a rather large estimate was computer generated. It is conceded by all parties that the winter estimate(s) was unusually high. This caused confusion and concern. Nevertheless, the estimate was just that. Ultimately, when the customer provided an actual gas reading during the summer months, the actual gas usage slowly caught up to the estimate.

In response to this situation, petitioner complained to the company and to the Board of Public Utilities. Several things occurred. First, the gas meter was tested and was found to be working within normal tolerances. Here, petitioner did not offer any evidence to overcome the presumption that the meter was working properly. Moreover, the meter was tested under the supervision of the Board of Public Utilities. Accordingly, I **CONCLUDE** that the meter was working properly. I further **CONCLUDE** that the actual gas bills were accurate. The company met its burden of proof in this regard. Petitioner failed to submit any competent proof, in a legal sense, that the meter was malfunctioning or providing inaccurate readings.

The second positive thing that occurred is that upon challenging SJG's billing, the inaccessible meter was replaced by one that could be read externally. Since the meter was exchanged in February 2008, the company has had the opportunity to review one full year of actual meter readings. Petitioner will not face inconsistent and unreliable estimates going forward.

The readings were compared on a yearly basis. And they were consistent over time. For example, the billings based upon actual readings (after the external read meter was installed) for the period January 31, 2008, through December 30, 2008, was \$3,229.71. The average billings, based upon estimates for the years 2005, 2006 and 2007 were \$3,605.55. Comparatively, they are reasonably consistent.

One final observation. On November 30, 2007, SJG's estimating system generated another inflated estimate in the amount of \$3,903.43. In this instance, petitioner immediately contacted the company. She provided an actual customer reading on December 21, 2007. The actual reading consisted of 7335 CCF, as opposed to the estimate, which was based upon 9373 CCF. Since the customer called immediately, the estimated bill was rescinded and the company resubmitted an actual bill based upon the customer reading. (R-1). Ideally this is what should have happened for all of the contested years.

In sum, the origin of this controversy emanates from the difficulties connected with an inaccessible gas meter, combined with the fact that the homeowner only resided at the property for approximately two months each year. The home in question is an older, large, three story home, with an above ground basement apartment. It is located on the windy and damp beach block. The combination of lack of access and high winter estimates provoked this controversy. It appears that the precipitating events have been resolved by the installation of a meter that can be read externally. While some of SJG's estimates were extraordinarily high when the actual readings were obtained, the gas bills were trued up or reconciled. I **CONCLUDE** that Beverly Goldberg was not overcharged as a result of this process.

ORDER

Based upon the foregoing, the relief sought by petitioner is **DENIED**. The petition is **DISMISSED**.

I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **SECRETARY OF THE BOARD OF PUBLIC UTILITIES, 2 Gateway Center, Newark, NJ 07102**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

May 28, 2009

DATE

Date Received at Agency: 5/28/09

Date Mailed to Parties:

W. J. Miller

W. TODD MILLER, ALJ

Floyd Langford

/sd

WITNESSES AND DOCUMENTS IN EVIDENCE

WITNESSES

For Petitioner:

Beverly Goldberg

For Respondent:

Christopher Palow

EXHIBITS

For Petitioner:

P-1 Petitioner's Submission (with various page numbers)

For Respondent:

- R-1 Statement of Customer's Account (Spreadsheet)
- R-2 Letter from Douglas R. Ziemba to Petitioner, March 13, 2008
- R-3 Completed Order Detail
- R-4 Bill for May, 2009
- R-5 SJG Tariff
- R-6 Statement, May 20, 2009
- R-7 Serviceperson's Checklist